REMARKS

This reply is in response to the Office Action dated June 6, 2006 and the Advisory Office Action dated August 15, 2006. Claims 1-7, 9-33, and 35-50 are pending in the application and stand rejected. Claims 1, 9, 24, and 48 are amended. Applicant has also canceled claims 19 and 42 without prejudice. Claims 1 and 24 are amended by incorporating the limitation of claims 19 and 42.. Entry of the foregoing amendment and reconsideration of the claims is respectfully requested.

Claims 1-7 and 9-50 stand rejected under 35 U.S.C. § 102(a or e), as being anticipated by Tsou et al. (either US 6,875,813 or WO 200157340) hereafter "Tsou."

Applicant respectfully traverses the rejection. The amended claims overcome the rejection because Tsou does not teach, show, or suggest a composition suitable for an air barrier comprising an elastomer, processing oil and plastomer, wherein the plastomer is a copolymer of ethylene derived units and C_3 to C_{10} α-olefin derived units and has a density of less than 0.915 g/cm^3; and wherein the composition has a brittleness value of less than -41.0°C, as recited in the base claims and those dependent therefrom. Accordingly, withdrawal of the rejection and allowance of the amended claims is respectfully requested.

Claims 1-7 and 9-50 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of Tsou. For reasons discussed above, Tsou does not teach, show or suggest the claimed invention as amended and therefore, claims 1-50 are not anticipated by or obvious over the claims of Tsou. Accordingly, a rejection on the grounds of nonstatutory obviousness-type double patenting should be withdrawn. Withdrawal of the rejection and allowance of the claims 1-7, 9-33, and 35-50 is respectfully requested.

Claims 1-7, 9-10, and 24-50 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over Simonutti et al (US 6,030,304), hereinafter Simonutti, cited above in view of Coran (US 4,130,534) hereafter "Coran."

The Office Action admits Simonutti does not disclose or suggest a processing oil. Yet, the Office Action asserts that because Coran "discloses an elastomeric composition and that extender oil is

'desireable' to improve processability and other properties," it would have been obvious to use extender oil as taught by Coran "to improve properties."

Applicants respectfully traverse the rejection on grounds that a combination of the references does not teach, show, or suggest the claimed invention. The motivation suggested in the Office Action is to improve processability by "adding extender oil to an elastoplastic composition." However, as demonstrated by Tsou, that improving processability would decrease air impermeability. Indeed, green strength improved as demonstrated in Table 3 of Tsou (the higher the green strength the better processability). However, Tsou squarely demonstrated the decreasing trend of the air impermeability (increasing trend of air permeability) as shown in Table 5 of Tsou.

Applicants application demonstrated the exact opposite trend of increasing air impermeability (decreasing trend of air permeability) as shown in Table 6 of the Applicant's application with similar green strength (see Table 5 of the Applicants' application). Indeed, the air permeability decreased from 4.53 to 2.45 cm^3-cm/cm^2-sec-atm ($x10^8$).

Applicants submit that Simonutti and Coran teach squarely away from applicants' claimed invention as amended. Applicants submit that by studying Simonutti and Coran, a person of ordinary skill would not motivated to combine Simonutti and Coran to improve air impermeability because it is against simple logic to combine Simonutti and Coran for improving air impermeability (data demonstrates in Tsou). The teaching of Simonutti and Coran clearly demonstrates the exact opposite trend, i.e., decreasing air impermeability. Furthermore, the results disclosed in the Applicants' application are surprising. The air impermeability improves with similar green strength (processability).

Applicants also respectfully traverse the rejection on grounds that the Office Action has not established a *prima facie* case of obviousness. To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. See In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Further, the teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not in the applicants' disclosure. See M.P.E.P. § 2143, citing In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991). Still further, the examiner must *particularly* identify any suggestion, teaching or motivation from *within* the references to combine the references (emphasis added). See In Re Dembiczak, 50 USPQ2d 1614 (Fed. Cir. 1999).

Here, the Office Action has provided no suggestion, teaching or motivation from *within* the references to combine their teachings. The motivation or teaching found in the cited references logically teaches away from the claimed invention as currently amended.

Applicants respectfully submit that withdrawal of the rejection and allowance of the claims is respectfully requested.

CONCLUSION

Having addressed all issues set out in the office action, Applicant respectfully submits that the pending claims are now in condition for allowance. Applicant invites the Office Action to telephone the undersigned attorney if there are any issues outstanding which have not been addressed to the Office Action's satisfaction. A petition for extension of time for filing this response is attached; however, in the event that petition becomes separated from this Response, the Commissioner is hereby authorized to charge counsel's Deposit Account No. 05-1712, for any fees, including extension of time fees or excess claim fees, required to make this response timely and acceptable to the Office.

Respectfully submitted,

September 6, 2006
Date

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